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Proposed Counsel for Debtor
and Debtor in Possession

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF HAWAII

In re HAWAIIAN AIRLINES, INC., a Hawaii corporation, Debtor.	**Case No. 03 -** 00817 (Chapter 11) **MOTION FOR ENTRY OF AN ORDER PURSUANT TO SECTIONS 105(a), 362 AND 553 OF THE BANKRUPTCY**

CODE AUTHORIZING (A) APPLICATION OF PREPETITION PAYMENTS TO POSTPETITION FUEL SUPPLY CONTRACTS AND STORAGE AGREEMENTS;(B) HONORING OF OTHER FUEL SUPPLY, STORAGE, INTO-PLANE FUEL CONTRACTS AND OTHER FUEL SERVICE ARRANGEMENTS; AND (C) CONTINUED PARTICIPATION IN FUEL CONSORTIA; PROPOSED ORDER

Date: March 21, 2003
Time: 2:30p.m.
Judge: Hon. Robert J. Faris

Hawaiian Airlines, Inc., a debtor and debtor in possession, (the "Debtor"), by and through its undersigned proposed co-counsel, hereby moves the Court (the "Motion") for entry of an order pursuant to sections 105(a), 362 and 553 of the Bankruptcy Code authorizing: (A) application of prepetition payments on fuel supply contracts, storage agreements and fuel consortia agreements; (B) honoring of other fuel supply, storage, into-plane fuel contracts and other fuel service arrangements; and (C) continued participation in fuel consortia. In support of the Motion, the Debtor respectfully states as follows.

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IMANAGEDB:465878.1

I. JURISDICTION

1. This Court has jurisdiction over the Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A).

2. Venue of this proceeding and the Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 105(a), 362 and 553 of title 11 of the United States Code.

II. BACKGROUND

4. On March 21, 2003 (the "Petition Date"), the Debtor filed a petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Hawaii (the "Bankruptcy Court"). Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor is operating its businesses and managing its properties as a debtor in possession. No trustee, examiner or committee of creditors has been appointed in the Debtor's chapter 11 case.

5. The Debtor was incorporated in January of 1929 under the laws of the Territory of Hawaii and is currently a subsidiary of Hawaiian Holdings, Inc.

("Hawaiian Holdings"),[1] a Delaware corporation whose common stock is traded on the American Stock Exchange and Pacific Exchange under the ticker symbol "HA." As part of the regular Securities and Exchange Commission filings of Hawaiian Holdings, Hawaiian Holdings reports its financial and operating results with those of the Debtor on a consolidated basis.

The Debtor's Business

6. The Debtor is engaged primarily in the scheduled transportation of passengers, cargo and mail. The Debtor's passenger airline business is its chief source of revenue. Principally all of the Debtor's flights either originate or end in the state of Hawaii. The Debtor provides passenger and cargo service from Hawaii, predominately Honolulu, to the cities of Los Angeles, Ontario, Sacramento, San Diego and San Francisco, California; Seattle, Washington; Portland, Oregon; Phoenix, Arizona; and Las Vegas, Nevada (the "Transpacific Routes"). The Debtor also provides non-stop service between and among the six major islands of the state of Hawaii (the "Interisland Routes") and weekly service to each of Pago Pago, American Samoa and Pepeete, Tahiti in the South Pacific (the "South Pacific Routes"). Charter service is provided from Honolulu to

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[1] Hawaiian Holdings holds 49.1% of the outstanding common stock of the Debtor directly. The remaining 50.9% of the outstanding common stock of the Debtor is held by AIP, Inc. ("AIP"), a wholly-owned subsidiary of Hawaiian Holdings.

Anchorage, Alaska (the "Charter Routes"). Based upon the Debtor's operating revenues, the Debtor is the largest airline headquartered in Hawaii.

7. Based on its unaudited results, the Debtor had a net loss of approximately $58 million for the twelve months ended December 31, 2002 ("Year 2002") on operating revenue of approximately $632 million for the same period. In comparison, for the twelve months ended December 31, 2001 ("Year 2001"), the Debtor reported net income of approximately $5 million on operating revenue of approximately $612 million for the same period. The Debtor's assets and liabilities, as of December 31, 2002, were approximately $256 million and $399 million, respectively. The Debtor's reported assets and liabilities, as of December 31, 2001, were approximately $305 million and $327 million, respectively.

8. The Debtor is party to a network of agreements among airlines. Because of the interdependent nature of airline operations, coordination among airlines, provision of airline services, and efficient service by the airline industry to the traveling public, in general, would be virtually impossible without such agreements. Among other things, these agreements facilitate cooperation among airlines with respect to such critical activities as making reservations and transferring passengers, packages, baggage and mail among airlines.

The Debtor's Fleet

9. Beginning in the fourth quarter of 1999, the Debtor initiated a plan to replace its entire fleet of McDonnell Douglas DC-9 aircraft used to service its Interisland Routes. This effort was completed in the first quarter of 2002, with the Debtor taking delivery of thirteen Boeing 717-200 aircraft (the "717 Aircraft").

10. Similarly, in the fourth quarter of 2001, the Debtor initiated a plan to replace, by June 2003, its entire fleet of McDonnell Douglas DC-10 aircraft (the "DC-10 Aircraft") used to service the Transpacific Routes, South Pacific Routes and Charter Routes (the "Overseas Routes") with sixteen Boeing 767-300ER aircraft (the "767 Aircraft"). To date, the Debtor has taken delivery of ten new and four used Boeing 767-300ER aircraft and has returned eleven DC-10 Aircraft leased from Continental Airlines, Inc. and a subsidiary of American Airlines, Inc ("American"). The Overseas Routes are currently serviced by fourteen Boeing 767-300ER aircraft.

11. All of the Debtor's aircraft are leased from various lessors under either financing or operating leases. Three of the Debtor's 767 Aircraft are leased under fifteen-year operating leases with a subsidiary of Ansett Worldwide Aviation Services, Inc. ("Ansett") and were delivered to the Debtor in the fourth quarter of 2001. Four 767 Aircraft were delivered in 2002 under seven-year operating leases with International Lease Finance Corporation. Seven of the Debtor's 767 Aircraft are leased under eighteen-year operating leases from Ansett

and a subsidiary of Boeing Capital Corporation ("Boeing"). Each of the 717 Aircraft is leased under an eighteen-year leveraged financing lease with Boeing. The Debtor's four remaining DC-10 Aircraft are leased under operating leases with American and B.C.I. Leasing.

Employees

12. The Debtor has approximately 3,200 active employees, approximately 2,600 of which are employed on a full time basis. The majority of the Debtor's employees are covered by labor agreements with the International Association of Machinists and Aerospace Workers (AFL-CIO) ("IAM"); the Airline Pilots Association, International ("ALPA"); the Association of Flight Attendants ("AFA"); the Transport Workers Union ("TWU"); or the Employees of the Communications Section ("Communications Section"). Each of these labor agreements, other than the contract with the seven-member Communications Section, was renegotiated in 2000 or 2001, and will be subject to renegotiation again in 2004 or 2005.

Previous Restructurings

13. On September 21, 1993, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Bankruptcy Court (the

"1993 Bankruptcy").[2] Following confirmation of the Debtor's plan of reorganization in the 1993 Bankruptcy on August 30, 1994, the Debtor successfully emerged from the 1993 Bankruptcy. Thereafter, on August 29, 2002, the Debtor was restructured from a public company into a wholly-owned subsidiary of Hawaiian Holdings and AIP (the "Restructuring"). As part of the Restructuring, the stockholders of the Debtor became stockholders of Hawaiian Holdings and Hawaiian Holdings assumed sponsorship of the Debtor's existing stock agreements. Prior to the Restructuring, the common stock of the Debtor was publicly traded on the American Stock Exchange and Pacific Exchange under Hawaiian Holdings' ticker symbol of "HA."

The Debtor's Current Financial Crisis

14. The Debtor's current financial crisis was precipitated by a confluence of factors relating, in large part, to the depressed economic conditions of both the United States and Japan. These factors include: (a) decreased fare revenue, (b) high aircraft lease costs, (c) high labor costs and (d) increased insurance, security and fuel costs. Although the terrorist attacks of September 11, 2001 are one of the most obvious and publicized reasons for the Debtor's current financial crisis, it is the significant, though related, decline in the economies of the

[2] United States Bankruptcy Court, District of Hawaii, Case No. 93-01074.

United States and Japan that has most contributed to the necessity of the Debtor's chapter 11 filing.

15. Following the events of September 11, 2001, the Debtor has seen a marked and dramatic reduction in the demand for travel to and within the islands of Hawaii. This reduced demand has been exacerbated by the flagging economies of the United States and Japan since that time. The demand for vacation travel, which historically has been the Debtor's greatest source of income, has been most affected by the economic decline. In order to attract passengers, airlines, including the Debtor, have been forced to lower their fares. The introduction of "low cost carriers," such as Jet Blue, has led to a further reduction in fare structure, as national airlines have been forced to reduce ticket prices to remain competitive. The combination of fewer ticket sales made at reduced fares continues to impact the Debtor's revenue and earnings negatively.

16. Beginning in late 1999, as discussed above, the Debtor began a refleeting process under which its aging fleet of McDonnell Douglas DC-9 aircraft and DC-10 Aircraft would be completely replaced by the end of 2003. By July of 2001, the Debtor had entered into the last of its agreements with lessors that would provide the aircraft for this refleeting. Although the terms of these agreements were considered to be fair and at market rates when agreed to, the subsequent and unforeseen decline in economic conditions in the United States and abroad have

caused the terms of such leases to be highly unfavorable. Because its aircraft lease costs are grounded in economic assumptions that have failed to materialize, the Debtor has been forced to shoulder the crippling costs of over-market leases. For the Year 2002, expenses associated with the Debtor's aircraft leases made up 12% of its total operating expenses.

17. Similarly, because the Debtor's union agreements were renegotiated in 2000 and 2001, the Debtor's labor costs have not been in line with current economic conditions. Based upon market assumptions made in 2000 and pre-September 11, 2001, the Debtor's labor costs have exceeded what the Debtor could realistically maintain based upon its revenues. This relative increase in labor costs, as compared to revenue, has negatively impacted the Debtor's ability to remain a viable enterprise. For the Year 2002, the Debtor's labor costs made up 30% of its total operating expenses.

18. As a direct result of the events of September 11, 2001 and the long-standing international crises in the Middle East, the Debtor has seen increases in several of its cost centers. For instance, insurance rates associated with airline operations have increased substantially as compared to pre-September 11, 2001 rates. Because of increased airline security requirements, the Debtor also has been faced with increased security expenditures. Moreover, fuel costs, which made up approximately 14% of the Debtor's operating expenses for Year 2002, also have

steadily increased during this period. These increased costs, in the face of declining revenues, have further weakened the Debtor's ability to succeed as a going-concern.

Prepetition Activities

19. The two largest controllable components of the Debtor's cost structure are labor and aircraft costs. These are, therefore, the two areas upon which the Debtor had focused prior to the Petition Date in trying to accomplish a successful out-of-court financial and operational restructuring. To that end, the Debtor has, particularly within the past year, been actively negotiating with both its aircraft lessors and labor unions to reduce its aircraft and labor costs, respectively. These negotiations have continued up until the Debtor's bankruptcy filing. On February 20, 2003, the Debtor's employees represented by IAM agreed to $3.8 million in concessions. On March 6, 2003, the Debtor's employees represented by ALPA reached an agreement with the Debtor with respect to approximately $8 million in concessions. Similarly, on March 11, 2003, the Debtor's employees represented by AFA agreed to approximately $3.5 million in concessions. Although the Debtor and its labor unions have made great progress in these negotiations, it now appears that the only practicable way for the Debtor to reorganize is under the protection afforded to it under the Bankruptcy Code, as the

Debtor has not been successful in its attempts to negotiate significant concessions from its aircraft lessors.

III. THE DEBTOR'S FUEL RELATIONSHIPS

A. The Debtor's Fuel Inventory

20. The day to day operation of the Debtor's airline depends upon a steady supply of fuel. The importance of this cannot be over-emphasized; even a one day delay in the procurement of fuel would have disastrous effects on the Debtor's business. In order to provide for a steady and dependable supply of fuel at each airport at which the Debtor's aircraft land, the Debtor is party to various agreements with respect to (a) the purchase of fuel ("Purchase Agreements"), (b) the storage of fuel (the "Storage Agreements") and (c) the delivery of fuel from storage to the Debtor's aircraft ("Into-Plane Agreements," and together with the Purchase Agreements and Storage Agreements, the "Fuel Agreements"). These Fuel Agreements are entered into by the Debtor with third parties directly and through joint agreements with other airlines as part of fuel committee cost sharing cooperatives ("Fuel Consortia"), as discussed below.

B. The Debtor's Purchase Agreements

21. The Debtor purchases its fuel from third parties ("Fuel Suppliers") who then deliver the fuel to the Debtor's storage facilities by pipeline, tanker or other form of transport. The Purchase Agreements relate to fuel to be

supplied to storage facilities at or in the vicinity of each of the airports at which the Debtor operates. Although the Debtor can purchase fuel on the open market for each of its required deliveries, the only way for the Debtor to be assured of sufficient fuel for operations is through its Purchase Agreements. For example, if the Debtor were to purchase fuel outside of its Purchase Agreements, the availability of fuel would be subject to the needs of other airlines that have contracted directly with such outside providers. The Purchase Agreements, moreover, generally provide for better payment terms than the Debtor could negotiate on the open market on an ad hoc per delivery basis.

22. The Debtor generally prepays for its fuel deliveries. This prepayment is subject to adjustment based upon the volume and quality of fuel actually received at the Debtor's storage facilities.

C. The Debtor's Storage Agreements

23. The Debtor utilizes various storage facilities located primarily in proximity to several major airports to store its fuel and, as such, is party to certain Storage Agreements with certain storage facility providers (the "Storage Providers"), both directly and by or through Fuel Consortia. These services are generally pre-paid based upon past and anticipated usage.

24. The Debtor is a member of approximately eight Fuel Consortia. Fuel Consortia lease, operate and manage fuel storage facilities located at or near

airports in which carriers and fuel suppliers store their fuel in one or more commingled fuel tanks. Fuel Consortia are managed by certain fuel facility service providers who are responsible for the fuel system operations and maintenance, including inventory accounting. The Debtor can withdraw its stored fuel at any time. The Debtor and the other Fuel Consortia participants pay a fee to the fuel facility service providers for their services in connection with the Fuel Consortia.

25. Fuel Consortia are established by airlines to minimize and share the cost of local storage. Certain of these Fuel Consortia are organized as separate corporations of which the Debtor is a share owner with the other member airlines. The third-party vendors that operate the Fuel Consortia are paid by the members of the Fuel Consortia for services that include maintenance and operation of the system and all necessary accounting functions required to allocate costs to individual users. The Debtor's participation in these arrangements results in significant cost savings that would be unattainable if the Debtor was not able to make all payments as due and generally maintain its existing relationships in the ordinary course of business.

26. Although membership in Fuel Consortia can provide a substantial savings in fuel storage and related expenses, the large up front costs of membership make joining Fuel Consortia impractical if an airline does not sufficiently utilize the Fuel Consortia facilities with respect to a given airport.

Generally, where the volume of the Debtor's flights to and from a given airport do not reach the volume at which joining a Fuel Consortium at that airport would be economically appropriate, the Debtor has contracted with such Fuel Consortia to utilize their services as a "non-contracting" party. In some cases, however, the Debtor has opted to contract directly with third parties who are not members of a Fuel Consortia for storage services.

D. <u>The Debtor's Into-Plane Agreements</u>

27. The Debtor is party to certain Into-Plane Agreements, both directly and as a member of certain Fuel Consortia, pursuant to which third parties ("Into-Plane Contractors") transport "local fuel" from the Debtor's storage facilities located at or near airport terminals (by pipeline or vehicle) into the Debtor's aircraft. Local fuel is transported by local pipelines, also known as "hydrant systems," and mobile or stationary vehicles.

28. Without the continued performance of the Into-Plane Contractors, the Debtor will be unable to transport "local fuel" from the Debtor's storage facilities into its aircraft. In many cases airports have agreements with certain Into-Plane Contractors pursuant to which airlines are required to use the services of such contractors. In other cases, the Into-Plane Contractors are selected by, formed by or are a function of Fuel Consortia with which the Debtor has contracted. In either case, it would be impossible for the Debtor to move its fuel to

its aircraft without the continued performance of such Into-Plan Contractors. The Into-Plane Agreements generally provide for payment upon monthly invoices for services rendered during the previous month.

IV. RELIEF REQUESTED

29. A ready fuel supply for the Debtor's fleet of aircraft is of critical importance to its continued operations and successful reorganization. It is fundamental to the Debtor's operations that it be able to continue performing under any of its fuel purchase, delivery, storage and other service arrangements customary in the airline industry. The Debtor's sophisticated fuel supply and distribution systems are essential to the continued performance of the Debtor's airline operations and to the Debtor's integrated efforts to manage fuel costs. Absent grant of the relief requested herein, the Debtor's fuel supply and distribution system could be disrupted, thereby stranding the Debtor's aircraft, passengers and employees. Such a development would prevent the Debtor from operating its airline business at the most basic level, causing severe disruption to the Debtor's flight schedules and seriously damaging the Debtor's credibility in the marketplace during a time of heightened scrutiny.

30. The Debtor respectfully requests, therefore, that the Court authorize the Fuel Suppliers and Storage Providers (collectively, the "Prepaid Suppliers") to whom payments were made prepetition (or that have issued or hold

credits for the benefit of the Debtor) to apply such prepayments or credits to jet fuel liftings, deliveries and storage facility usage occurring after the Petition Date. Without authority from the Court for the Prepaid Suppliers to apply prepetition prepayments or credits to postpetition fuel liftings, deliveries and storage facility usage, the Debtor's fuel supply and distribution system could be interrupted and its business harmed, especially if such interruption occurred before the Debtor obtained appropriate relief. Accordingly, the Debtor requests that, to the extent required, the automatic stay of 11 U.S.C. § 362 be modified to allow for the payments received by the Prepaid Suppliers or credits existing prior to the Petition Date to be applied to fuel liftings, deliveries and storage facility usage occurring postpetition, and that the Prepaid Suppliers be permitted to exercise any such set off and recoupment rights pursuant to 11 U.S.C. § 553 as may be necessary to ensure such application of fuel or pipeline and storage prepayments or credits.

31. In addition, the Debtor respectfully requests that this Court authorize it to pay any prepetition outstanding obligations under its Fuel Agreements. The Debtor estimates that it currently owes approximately $1.5 million to third party providers for prepetition services pursuant to the Fuel Agreements. As the Into-Plane Contractors and, in certain circumstances the Prepaid Suppliers, are paid in arrears and could not be easily or quickly replaced at numerous locations, this authority is critical to the Debtor's continuing business

operations. Similarly, any disruption in the Debtor's access to storage services would be devastating to the Debtor's operations due to the limited number of suitable Into-Plane Contractors and storage facilities in proximity to major airports. Moreover, even if the Debtor could find alternative providers for such services, any disruption likely would result in higher prices for fuel services and regional transport and storage.

32. The Debtor further respectfully requests that this Court authorize the Debtor to continue honoring, performing, and exercising its rights and obligations (whether prepetition or postpetition) in accordance with the Fuel Agreements; provided, however, that such honoring, performing, or exercising of such rights and obligations shall not give rise to administrative claims solely as a result of the entry of an order providing such authorization.

33. The Debtor further respectfully requests that this Court authorize it to continue participating in the Fuel Consortia in accordance with established practices thereunder and in the ordinary course of business and to perform and honor its obligations, whether prepetition or postpetition, to the Fuel Consortia. In order to ensure a steady supply of fuel at numerous locations, and a reliable place to store such fuel, there must not be any limitation on the Debtor's access to fuel stored in the facilities operated by various Fuel Consortia.

34. Finally, the Debtor also requests that all applicable banks and other financial institutions be authorized and directed to receive, process, honor and pay all checks presented for payment of, and to honor all fund transfer requests made by the Debtor related to, the claims that the Debtor requests authority to pay in this Motion, regardless of whether such checks were presented or fund transfer requests were submitted prior to or after the Petition Date; provided, however, that: (a) funds are available in the Debtor's accounts to cover such checks and fund transfers; and (b) all such banks and other financial institutions are authorized to rely on the Debtor's designation of any particular check as approved by the proposed Order on the Motion filed contemporaneously herewith.

35. For obvious reasons, it is essential that the Debtor continue to have access to a ready supply of fuel at all times and access to the related fuel services required to deliver fuel to its aircraft. Any disruption in the Debtor's access to a reliable fuel supply or the related fuel services would seriously undermine the Debtor's operations and its restructuring efforts.

V. BASIS FOR RELIEF REQUESTED

36. The Debtor does not believe that the Prepaid Suppliers' application of prepetition payments to postpetition fuel supply obligations or storage facility usage violates the automatic stay imposed by section 362 of the Bankruptcy Code, but seeks authority merely in the abundance of caution. Courts

have granted similar relief in other airline reorganization cases. *See In re UAL Corporation*, Case No. 02-B-48191 (Bankr. N.D. Ill. December 11, 2002); *In re US Airways Group, Inc.*, Case No. 02-83984 (SSM) (Bankr. E.D. Va. August 12, 2002) (authorizing fuel suppliers to offset prepetition advance wire payments against postpetition fuel supply obligations); *In re Trans World Airlines, Inc.,* Case No. 01-00056 (PJW) (Bankr. D. Del. Jan. 12, 2001) (same); *In re Trans World Airlines, Inc.*, Case No. 95-43748 (BSS) (Bankr. E.D. Mo. July 3, 1995) (same). Therefore, similar relief also should be granted here.

37. In addition, the Court has the authority to allow the Debtor to continue honoring, performing, or exercising its rights and obligations (whether arising prepetition or postpetition) under (a) the Purchase Agreements; (b) the Storage Agreements, (c) the Fuel Consortia agreements and (d) the Into-Plane Agreements, to the extent these require payment of prepetition claims, under the Court's general equitable powers codified in section 105(a) of the Bankruptcy Code, which empowers the Court to "issue any Order, process, or judgment that is necessary to carry out the provisions of this title." 11 U.S.C. § 105(a). Courts have granted similar relief to debtors in other airline reorganization cases pursuant to section 105(a) of the Bankruptcy Code. *See In re UAL Corporation*, Case No. 02-B-48191 (Bankr. N.D. Ill. December 11, 2002) (authorizing debtors to honor fuel supply, distribution, storage and into-plane fuel contracts and other fuel service

arrangements); *In re US Airways Group, Inc., Case No.* 02-83984 (SSM) (Bankr. E.D. Va. August 12, 2002).

38. In addition, courts have also relied on the "necessity of payment" doctrine to authorize debtors to honor certain prepetition obligations. In further support of the Motion, the Debtor has filed with the Court a Consolidated Memorandum of Law in Support of Motions of Debtor for Orders Authorizing Payment of Certain Prepetition Claims.

39. Courts in this jurisdiction have authorized payment to vital suppliers under similar circumstances. *See, e.g., In re Liberty House, Inc.*, Case No. 98-01039 (Bankr. D. Haw. March 20, 1998) (order authorizing payment of prepetition claims of certain service providers including shipping service providers under the "necessity of payment" doctrine); *In re Liberty House, Inc.*, Case No. 98-01039 (Bankr. D. Haw. March 20, 1998) (order authorizing payment of prepetition claims of certain operators of leased and licensed departments under the "necessity of payment" doctrine).

40. The Debtor's agreements with Fuel Suppliers, the Storage Providers, the Fuel Consortia and the Into-Plane Contractors are critical to its reorganization efforts. Without these arrangements, the Debtor would have inadequate access to fuel and no infrastructure to distribute or receive its fuel.

41. The Debtor believes that it is authorized to continue participating in the Fuel Consortia in the ordinary course of business, without further order of this Court, but requests this relief nonetheless in an abundance of caution.

42. Nothing in this Motion shall be construed as a request for authority to assume any executory contract or unexpired lease under section 365 of the Bankruptcy Code.

VI. NOTICE

43. Notice of this Motion has been provided to: (i) the Office of the United States Trustee for District of Hawaii; (ii) parties appearing on the Debtor's list of creditors holding the twenty largest unsecured claims; (iii) the Securities and Exchange Commission; and (iv) the Internal Revenue Service. Given the circumstances, the Debtor submits that no other or further notice need be given.

VII. NO PRIOR REQUEST

44. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order, substantially in the form submitted contemporaneously herewith: (a) authorizing the Fuel Suppliers and Storage Providers to credit postpetition fuel liftings, deliveries and storage facility usage with any prepayment or other credits existing prior to the Petition Date, (b) authorizing the Debtor to honor, perform, and exercise its rights and obligations (whether prepetition or postpetition) pursuant to its Purchase Agreements, Storage Agreements, Into-Plane Agreements, and Fuel Consortia agreements; (c) authorizing the Debtor to continue participating in the Fuel Consortia in accordance with established practice thereunder and in the ordinary course of business; and (d) granting such further relief as is just and proper.

Dated: Honolulu, Hawaii, March 21, 2003

By: ______________________

NICHOLAS C. DREHER, ESQ.
THEODORE D.C. YOUNG, ESQ.
CADES SCHUTTE LLC

and

LISA G. BECKERMAN, ESQ.
DAVID SIMONDS, ESQ.
AKIN GUMP STRAUSS HAUER & FELD LLP

Proposed Counsel for Debtor and Debtor in Possession

IN THE UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re	) **Case No. 03 -**
	) (Chapter 11)
HAWAIIAN AIRLINES, INC.,	)
a Hawaii corporation,	) **ORDER AUTHORIZING (A) APPLICATION**
	) **OF PREPETITION PAYMENTS TO**
Debtor.	) **POSTPETITION FUEL SUPPLY CONTRACTS**
	) **AND STORAGE AGREEMENTS; (B)**
	) **HONORING OF OTHER FUEL SUPPLY,**
	) **STORAGE, INTO-PLANE FUEL CONTRACTS**
	) **AND OTHER FUEL SERVICE**
	) **ARRANGEMENTS; AND (C) CONTINUED**
	) **PARTICIPATION IN FUEL CONSORTIA**
	)
	) Date: March 21, 2003
	) Time:
	) Judge: Hon. Robert J. Faris
	)

Upon the Motion[1] of the debtor and debtor in possession (the "Debtor") in the above-captioned chapter 11 case seeking entry of an order authorizing (A) application of prepetition payments to postpetition fuel supply contracts and storage agreements; (B) honoring of other fuel supply, storage, into-plane contracts and other fuel service arrangements; and (C) continued participation in fuel consortia; and it appearing that the relief requested is in the best interests of the Debtor's estates, its creditors and other parties in interest; and it appearing that the relief requested is essential to the continued operation of the Debtor's businesses; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding

[1] All capitalized terms not defined herein shall be as defined in the Motion.

within the meaning of 28 U.S.C. § 157(b)(2)(A); and it appearing that venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and adequate notice having been given; and it appearing that no other notice need be given; and after due deliberation and sufficient cause appearing therefore, it is hereby ORDERED THAT:

1. The Motion is granted in its entirety.

2. The Fuel Suppliers are authorized to apply or credit any prepayments made (or credits existing) prior to the Petition Date to or against postpetition liftings of jet fuel, deliveries and the provision of attendant transportation services to the Debtor.

3. The Storage Providers are authorized to apply or credit any prepayments made (or credits existing) prior to the Petition Date to or against postpetition storage facility usage by the Debtor.

4. To the extent any such prepayments may be construed as deposits by any of the Fuel Suppliers or Storage Providers, this Court authorizes any such Fuel Supplier or Storage Provider to use those prepayments to pay any outstanding prepetition obligations and to apply all remaining amounts to postpetition jet fuel liftings, deliveries, transport services, storage facility usage and related services.

5. The automatic stay of section 362 of the Bankruptcy Code is hereby modified to the extent required to allow the Fuel Suppliers and Storage Providers to apply or credit any prepayments made (or credits existing) prior to the Petition Date to or against any postpetition jet fuel liftings, deliveries and related transport services provided to the Debtor and to any storage facility usage by the Debtor, and the Fuel Suppliers and Storage Providers are permitted to exercise such set off and recoupment rights in furtherance thereof pursuant to section 553 of the Bankruptcy Code.

6. The Debtor is authorized, but not required, in its discretion to continue honoring, performing, and exercising its rights and obligations (whether prepetition or postpetition) in accordance with the Fuel Agreements to the extent that services or goods provided under such agreements are paid in arrears; provided, however, that such honoring, performing, or exercising of such rights and obligations shall not necessarily give rise to administrative claims solely as a result of the entry of this Order.

7. The Debtor is authorized, but not required, in its discretion, to continue participating in the Fuel Consortia in accordance with the established practices thereunder and in the ordinary course of business, and to perform and honor its obligations, whether prepetition or postpetition, to the Fuel Consortia; provided, however, that such participation shall not give rise to administrative claims solely as a result of the entry of this Order.

8. In accordance with this Order and any other order of this Court, each of the banks and financial institutions at which the Debtor maintains its accounts relating to the payment of the claims that the Debtor requests authority to pay in the Motion, is authorized and directed to honor checks presented for payment, to honor all fund transfer requests made by the Debtor related thereto, to the extent that sufficient funds are on deposit in such accounts, and to rely on the Debtor's statements with respect to the foregoing.

9. Neither this Order, nor the Debtor's actions, shall be deemed to be an assumption or adoption of any agreement, contract or policy.

10. Any payment pursuant to this Order is not, and shall not be deemed an admission as to the validity of the underlying obligation or a waiver of any rights the Debtor may have to subsequently dispute any obligation.

11. This Court shall retain jurisdiction to hear and determine all matters originating from the implementation of this Order.

12. Notwithstanding the possible applicability of Bankruptcy Rules 6004(g), 7062, 9014, or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

Dated: Honolulu, Hawaii, ___________________, 2003.

____
UNITED STATES BANKRUPTCY JUDGE